

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

MAR 16 2018

JACOB E. NICHOLS # 76576
Full Name/Prisoner Number185 DR. MICHAEL JENKINS Rd.CLAYTON, NEW MEXICO 88415
Complete Mailing AddressMATTHEW J. DYKMAN
CLERKIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICOCivil Action No. 18 CV 255 RB/SCY
(To be supplied by the Court)JACOB E. NICHOLS_____, Plaintiff(s),
Full name(s) and prisoner number(s)
(Do not use *et al.*)

v.

THE GEO GROUP, INC., J. BOWEN, DONALD VIGIL,CPT. MEDINA, LT. BEATTY, C. BAKER, A. DURAN, Defendant(s).
(Do not use *et al.*) (IN THEIR OFFICIAL AND NON OFFICIAL CAPACITY)**PRISONER'S CIVIL RIGHTS COMPLAINT****A. PARTIES AND JURISDICTION**1. JACOB NICHOLS is a citizen of NEW MEXICO who
(Plaintiff) (State)presently resides at 185 DR. MICHAEL JENKINS Rd., CLAYTON, NM 88415
(mailing address or place of confinement)2. Defendant THE GEO GROUP, INC. is a citizen of FL.
(name of first defendant) (State)whose address is ONE PARK PL. SUITE 700, 621 NW 53Rd ST., BOCA RATON, FL.
33487and who is employed as Corp. OFFICE (PRIVATE PRISONS). At the time the claim(s)
(title and place of employment)alleged in this complaint arose, was this defendant acting under color of state law?
☒ Yes ☐ No. If your answer is "Yes," briefly explain:_____

DEFENDANTS con't.

3. Donald Vigil - Defendant
185 Dr. Michael Jenkins Rd.
Clayton, New Mexico 88415

is a citizen of the STATE of N.M., employed as the Assoc. Warden
of security at the N.E.N.M.D.F. at Clayton, N.M. and was
acting under the color of law yes.

4. Capt. Medina - Defendant
4337 State Rd. 14 - NEW MEXICO Dept. of Corrections
Santa Fe, New Mexico 87508

And At Address

Capt. Medina - S.T.I.U. (Central N.M. Corr. Facility)
1525 Morris Rd. SW
Los Lunas, N.M. 87031

is a citizen of N.M. and yes was acting under color of law.

5. Cecilia Baker
185 Dr. Michael Jenkins Rd.
Clayton, New Mex. 88415

is a citizen of New Mexico and yes was acting under color of law.

6. A. Duran
185 Dr. Michael Jenkins Rd.
Clayton, New Mexico 88415

is a citizen of N.M. and yes was acting under color of law.

con't 2.

(Con't.) defendants

7. LT. J. BEATTY - Defendant

185 Dr. Michael Jenkins Rd.

Clayton, NEW MEXICO 88415

IS A CITIZEN OF NEW MEXICO, Employed as THE GRIEVANCE OFFICER AT NENMDF
in Clayton, NEW MEXICO and WAS ACTING under THE color of LAW yes.

Con't 3.

3. Defendant J. BOWEN is a citizen of NEW MEXICO
 (name of second defendant) (State)

whose address is 185 DR. MICHAEL JENKINS RD., CLAYTON, NM 88415

and who is employed as WARDEN - NENMDF. At the time the claim(s)
 (title and place of employment)

alleged in this complaint arose, was this defendant acting under color of state law?

☒ Yes ☐ No. If your answer is "Yes," briefly explain:

HE OVER SEES THE ENTIRE FACILITY AND ORDERED THE SHAKEDOWN

ON APPROX. JANUARY 26th, 2018

(If more space is needed to furnish the above information for additional defendants, continue on a blank sheet which you should label "A. PARTIES." Be sure to include each defendant's complete address and title.)

(CHECK ONE OR BOTH:)

☒ Jurisdiction is asserted pursuant to 42 U.S.C. § 1983 (for state defendants) or *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971) and 28 U.S.C. § 1331 (for federal defendants).

☐ Jurisdiction also is invoked pursuant to 28 U.S.C. § 1343(a)(3). (If you wish to assert jurisdiction under different or additional statutes, you may list them below.)

B. NATURE OF THE CASE

BRIEFLY state the background of your case.

ON APPROX. 1-26-18 NENMDF CONDUCTED A SHAKE DOWN OF ALL INMATES AND THEIR PROPERTY. PLAINTIFF'S ASTARA PRAYER BOOK WAS TAKEN DURING THIS SEARCH AND WAS DENIED ITS RETURN BY WARDEN'S BOWEN AND VIGIL AS WELL CPT. MEDINA, CECILIA BAKER, A. DURAN EVEN THOUGH THEY WERE EACH INFORMED AT THE TIME OF THE SEARCH. LT. BEATTY THE GRIEVANCE OFFICER DENIED THE RETURN OF THE PLAINTIFF'S RELIGIOUS MATERIAL EVEN AFTER AN INFORMAL AND GRIEVANCE WERE FILED.

C. CAUSE OF ACTION

I allege that the following of my constitutional rights, privileges, or immunities have been violated and that the following facts form the basis of my allegations: (If more space is needed to explain any allegation or to list additional supporting facts, continue on a blank sheet which you should label "D. CAUSE OF ACTION.")

Claim I: EACH VIOLATED MY FIRST AMENDMENT RIGHT UNDER THE CONSTITUTION OF THE UNITED STATES AFFORDED TO ME AS A U.S. CITIZEN FREEDOM OF RELIGION.

Supporting Facts: (Include all facts you consider important, including names of persons involved, places, and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

Claim II: VIOLATION OF MY EIGHTH AMENDMENT RIGHT
(deliberate indifference)

Supporting Facts:

WARDENS BOWEN AND VIGIL, CPT. MEDINA, LT. BEATTY, C. BAKER AND A. DURAN ALL ACTED WITH DELIBERATE INDIFFERENCE WHEN EACH REFUSED TO RETURN PLAINTIFFS ASATRU PRAYER BOOK DURING THE SEARCH AND AFTER THE SEARCH

Prisoner's Original Signature

Original signature of attorney (if any)

Attorney's full address and telephone

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at 185 Dr. Michael Jenkins Rd. on 2018.
(location) (date)

J Lee Doffs

Prisoner's Original Signature

NEW MEXICO CORRECTIONS DEPARTMENT

Form CD-150501.3
Revised 03/31/15 Page 1

INMATE INFORMAL COMPLAINT

RECEIVED BY

Inmate Name: Jacob Nichols NMCD#: 76576

FEB 06 '18

Facility: NENMDF HU/Cell #: 1E108 Date of Incident: 26 Jan 2018 **GRIEVANCE**Name of subject or person to whom the complaint was filed against: Capt. Medina / C. Baker / A. Dunn / J. Thomas / Lt. Jones

Explain your complaint in detail: During the shutdown, the above mentioned individuals confiscated a large blue notebook tied together with string, stating that it was "altered". This is a religious notebook of a self-improvement aid. It should not have been seized, as I cannot conduct my rituals or name castings without this book. I've been working on this book for 4 years & it's been through at least that many shake downs; it's never been an issue before.
Please return this note book forthwith.

Inmate Signature: Jake Pills Date: 26 Jan 2018

Unit Manager/Chief of Security/Designee

Date Received: 2/6/18I, [Signature] have reviewed the above informal complaint and
Unit Manager/Chief of Security/DesigneeRecommend: ☒ Resolution ☐ Recommend formal grievanceExplain: M. Nichols if any personal property is altered it will be forfeit.Staff Member: [Signature] Date: 2/6/18
Print / SignAcknowledged by the signatures below, this informal complaint is: ☒ Resolved ☐ Unresolved
Unit Mgr/Chief of Security/Designee: [Signature] Date: 2/6/18
Print / SignStaff Witness: R Green Date: 2/2/18
Print / SignInmate: [Signature] Date: 12 Feb 2018
Print / Sign

If this informal complaint could not be resolved, the inmate may pursue a formal grievance within 5 working days of the date of resolution.

At time of resolution-the inmate must be given a copy of the completed copy of the Informal Complaint

Inmate must attach this document if the formal grievance is to be submitted.

EXHIBIT B

MEMORANDUM

Northeast New Mexico Detention Facility
185 Dr. Michael Jenkins Road
Clayton, New Mexico 88415

www.geogroup.com

Date: February 15, 2018


To: Jacob Nichols #76576
cc: File

From: J. Beatty Grievance Lieutenant

RE: GRIEVANCE INVESTIGATION AND RECOMMENDATION LOG 18-02-34

On February 6, 2018 Grievance was received from Jacob Nichols #76576. This grievance is filed concerning a confiscated notebook. You state in your grievance the book contains religious material. You have requested relief in the form of this notebook being returned. Upon inspection of this item it has been observed more than half of the notes do not pertain to religious beliefs. This notebook has been assembled and is not in its original state. This is now considered contraband. As contraband you are not allowed to possess this.

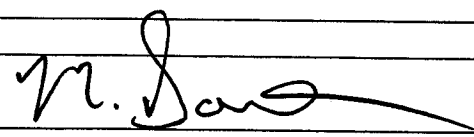
RECOMMEND GRIEVANCE BE DENIED.


Grievance Lieutenant's Signature

February 15, 2018
Date

STEP 4 – Decision Of Warden/Designee:

Denied ☒ Granted () Dismissed () Resolved () Referred ()


Signature

Date Returned To Inmate: _____

2-20-18
Date

NEW MEXICO CORRECTIONS DEPARTMENT
INMATE GRIEVANCEInmate's Name: Jacob Nichols NMCD#: 76576 Grievance File #: 17-02-24Institution: NENMDF Housing Unit: 1E108 Date of Incident: 1-26-18Date Received by Grievance Officer: 2/6/18

RECEIVED BY

Grievance Officer's Signature: [Signature]

FEB 06 '18

INSTRUCTIONS: It is expected that problems be resolved in an informal manner. Please read policy/procedure CD-150500 before filing a grievance. Your grievance must be typed or clearly written so as to be readable after photocopying. The grievance must be filed with the Institutional Grievance Officer to be valid. Copies sent elsewhere will be considered informational copies only, not requiring a response.

STEP 1 - Grievance: Include documentation and names of any witnesses to support your claim. For your grievance to be accepted, you must state the relief requested. Use additional pages, if necessary.

on 1-26-18 my notebook containing religious material was taken from me by the search team as our pod was being searched along with other pods from both housing units. I spoke with Capt. Medina at the search site and explained the notebook contents and that I had been compiling all that I could on my religion as I am a practicing Asatru and I was trying to save space by compiling all of my material into one notebook. He (Capt. Medina) said the book was altered and refused to return it to me and it was confiscated. - continued on next page -

Inmate's Signature: [Signature] Date: February 5th, 2018

Relief Requested: _____

STEP 2 - To Be Completed by the Grievance Officer:

- A. ☒ your grievance is accepted for consideration.
- B. ☐ your grievance is being returned to you because of the following reason:
- ☐ 1. The grievance is not readable.
 - ☐ 2. The matter has been answered in previous grievance #: _____
 - ☐ 3. The grievance concerns material not grievous under present policy.
 - ☐ 4. The grievance is a group grievance or petition. (Submit individually.)
 - ☐ 5. The grievance is not timely.
 - ☐ 6. Other Specify: _____

Grievance Officer's Signature: [Signature]Date: 2/15/18

NEW MEXICO CORRECTIONS DEPARTMENT
INMATE GRIEVANCEGrievance File #: 18-02-34**STEP 3 – Grievance Investigation and Recommendation:**

1. Witness Statement: ()
2. Witness Statement: ()
3. Grievance Officer Investigation Results and Recommendation

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FEB 06 '18

GRIEVANCE

Grievance Officer's Signature _____

Date _____

STEP 4 – Decision of Warden/Designee: Date received by Grievance Officer: _____

Denied () Granted () Dismissed () Resolved () Referred ()

Signature: _____ Date: _____

Date Returned to Inmate: _____

STEP 5 – Departmental Appeal: (Return grievance to Grievance Officer for processing.)

A. Reason for appeal: In Lt Beatty's own words, the book that was confiscated did contain, in part, religious material. Also, Lt Beatty's assertion that half of the book was not religious would lead me to question the extent of Lt. Beatty's knowledge of the asatru beliefs and practices to make such an assertion. The notebook is the same that is sold on commissary (#1046). After much use and time the bindings started drying, separating the pages from the book. Therefore, I did the best I could to keep the papers together. I did not alter the book.

Inmate's Signature: [Signature] Date: 2-22-18Date Received By Grievance Officer: 2/26/18Date Sent to Grievance Coordinator: 2/26/18**B. Department Decision:**

Cabinet Secretary/Designee _____ Date: _____

RECEIVED BY

18-02-24
FEB 06 '18

(con't.)

GRIEVANCE

AS TO NEW MEXICO Dept. of Corrections The Asatru religion is recognized in policy and also to Dept. of Corrections policy I am allowed to keep in my possession religious material. Under my First Amendment right of the Constitution of the United STATES, it reads as follows.

Congress shall make no law respecting an establishment of Religion, or prohibiting the Free exercise thereof; or abridging the Freedom of speech, or the press; or the right of the people peaceably to Assemble, and to petition the Government For a redress of grievance.

your refusal to return my handwritten notes on my religious Holidays, rituals, prayers and information as well spiritual beliefs is a violation of this First Amendment Right afforded to me by the United STATES Constitution and a violation of my civil Rights under the First Amendment.

This is deliberately done by prison staff and under my 8th Amendment Right constitutes deliberate indifference, a violation of my 8th Amendment Right also afforded to me by the United STATES Constitution. my Fourteenth Amendment Right guarantees me as well every one else "equal protection under the law", by doing so you are discriminating against me when taking my religious items.

Since The Supreme Court struck down The Religious Freedom Reform/Restoration Act (RFRRA) as it applies to state prisoners in 1997 but it did not separate my claim under the Religious land use and institutionalized persons act. (RLUPA)

RECEIVED BY

190294
FEB 06 '18

(Cont.)

I again, ask that my notebook containing my religious information, prayers, Holidays, beliefs and Faith be returned to me as it is held in storage or I will be forced to take legal action against The N.M. D.O.C., Capt. Medina, warden Bowen, warden Virg. I and The GEO Group, Inc. in The United States District Court for the violation of my civil rights, one, eighth and fourteenth as well for deliberate indifference and mental anguish.

Suke Dills

February 5th, 2018

Exhibit C

David Jablonski
Secretary
505.827.8884

Jerry Roark
Deputy Secretary
505.827.8884

**State of New Mexico
Corrections Department**
4337 State Road 14, Santa Fe, NM 87508
PO Box 27116, Santa Fe, NM 87502-0116
www.corrections.state.nm.us
Phone: 505.827.8600 • Fax: 505.827.8220



Administrative Services 505.827.8601
Adult Prisons 505.827.8767
Corrections Industries 505.827.8906
General Counsel 505.827.8698
Information Technology 505.827.8713
Probation & Parole 505.827.8830
Office of Recidivism Reduction 505.383.2992
Training Academy 505.827.8900

"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always."

Jacob Nichols NMCD 76576
NENMDF
Grievance Appeal 18-02-34

Resolved

This is in response to your grievance appeal you filed claiming a notebook with religious materials was confiscated from you because staff deemed the book was altered.

The initial investigation indicates you were informed of the results by the grievance officer of the investigation in regards to the issues noted. The grievance officer response is correct in the decision to you. After further investigation, Lt. Beatty advised that you would be receiving your religious materials back, however the notebook that is altered will not be returned.

We are in agreement with the decision and your grievance has failed to provide any additional evidence to support your claim; therefore this grievance appeal is resolved.

You exhausted your administrative remedies.


German Franco, Director of Adult Prisons

3-5-18
Date

EXHIBIT D

Form (CD-150201.2)
Revised 03/09/15NEW MEXICO CORRECTIONS DEPARTMENT
RECEIPT FOR CONFISCATED PROPERTY

Inmate Name: Juanita Nichols NMCD# 710576 Date: 1-26-18
 Facility: NENMDF HU/Dorm: _____ Cell/Bunk#: _____

The following items were removed from your property because it is considered to be, or has been considered to be:

1=Contraband 2=Altered 3=Unauthorized/Prohibited 4=Has another inmates NMCD# 5=Security Threat Group Related
 Disposition: The item(s) have been (legend): D=Disposed R=Retained as evidence S=Stored H=Home

Sample:	Description of item	Removed for:	Disposition
1.	One (1) Am/Fm dual cassette Panasonic Stereo	4	S

(List the item description, reason for removal using the number codes above and the disposition of each item using the legend codes as above.)

1.	4 Alcohol Drinks	R	D
2.	2 packages of homemade cook	R	D
3.	4 Books	R	D
4.	10 magazines	H	S
5.	necktie I brought	H	S
6.	Altered Notebook	2	S
7.			
8.			
9.			
10.			

Items confiscated by: A. Duran J. Duran Search conducted: 1/26/18 1414
 Security Staff Print/Sign Date Time

Comment: _____
 I authorize the mailing of articles indicated above with a disposition of H to be mailed prepaid to Me whose address is 6604 Hallmark Ave DE ALBANY 87107 the cost of which is to be charged to me (debit memo attached). I further acknowledge the Inventory and disposition of all items listed above.

The following article(s) # listed above will be disposed of if not claimed or evidence of ownership not provided within fourteen (14) days: _____

The following article(s) # listed above has been determined to be hard contraband for which no ownership has been established or the inmate has refused to designate a method of disposal. The contraband has been disposed of by: _____

Signature of Staff Disposing of Property: _____
 Security Staff Print/Sign Date Time

Receipt Acknowledged: J. K. N. M. 710576 26 JAN 2018
 Inmate Print/Sign NMCD# Date
 Witness: [Signature] STILL CAP4 1-26-18
 Security or Staff Print/Sign Title Date

Copies to: Inmate, Property Officer and Chief of Security

David Jablonski
Secretary
505.827.8884

Jerry Roark
Deputy Secretary
505.827.8884

State of New Mexico
Corrections Department
4337 State Road 14, Santa Fe, NM 87508
PO Box 27116, Santa Fe, NM 87502-0116
www.corrections.state.nm.us
Phone: 505.827.8600 - Fax: 505.827.8220



Susana Martinez
Governor

Administrative Services 505.827.8601
Adult Prisons 505.827.8767
Corrections Industries 505.827.8906
General Counsel 505.827.8698
Information Technology 505.827.8713
Probation & Parole 505.827.8830
Office of Recidivism Reduction 505.383.2992
Training Academy 505.827.8900

"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always."

February 28, 2018
Jacob Nichols #76576
NENMDF

RE: Correspondence

I received your letter where you wrote to the Inspector General at Central Office. Your letter consists of a complaint of items taken from you during a shakedown. Complaints are considered grievable matters and must be addressed in the grievance process. I also have already received your grievance appeal on 2/26/28. You will be notified of the grievance appeal decision in a timely manner after it is investigated.

Any direct correspondence sent either to the governor's office, the secretary of corrections, general counsel or the director of adult prisons office will always be sent back to you without any action being taken. You will have to address it by CD policy. No action will take place unless you follow CD Policy.

Sincerely,

Steve Madrid, Statewide Disp./Griev. Appeals Manager

cc: file

EXHIBIT E

15 Feb 2018

On the above date at approximately 1000 I, Chaplain P. Montoya at NENMDF, called to Commissary at NENMDF on the phone & spoke with Mrs. Montoya in reference to the Ásatrú Prayer Book being stored there for Jacob Nichols #76576 & was informed by her that the property in question was destroyed. End of statement

P. Montoya

signature

P. Montoya

NENMDF Chaplain

EXHIBIT F



NORTHEAST NEW MEXICO DETENTION FACILITY

INMATE REQUEST FORM

INMATE'S NAME: Jacob Nichols NMCD#: 76576HOUSING: I POD: E CELL: 108 BED: STAFF MEMBER: Montoya DEPARTMENT: CommissaryREQUEST (PLEASE PRINT): I was told that my Asatru's prayer book was
destroyed. I was just wondering if this is true.If it is, who ordered it?Thank youJacob Nichols19 Feb 2018

INMATE'S SIGNATURE

DATE

RESPONSE: Lt. Beatty has your stuff.If its not there. It must have
been destroyed.Amor

STAFF SIGNATURE

DATE



MEMORANDUM

Date: 2/15/18

To: Inmate population

Northeast New Mexico
Detention Facility
185 Dr. Michael Jenkins Road
Clayton, New Mexico 88415

TEL: 575 374 4005
FAX: 575 374 4010
www.geogroup.com

From: C. Montoya, Recreation Director

RE: HOBBY CRAFT


OK guys! With confusion of the hobby craft I wanted to clarify some things. Currently all ordering has been stopped due to procedure which needs to be discussed with the wardens. Also, anything that you had from the shake down, if in my possession unless you have specified otherwise, will be held in my possession until I am given further instruction. I have been told nothing can be given back per Warden Vigil.

C. Montoya,

A large, stylized handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke.

Recreation Director

EXHIBIT I

 <p>CD-101300</p>	<h2 style="text-align: center;">NEW MEXICO CORRECTIONS DEPARTMENT</h2> <p style="text-align: center;"><i>"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always."</i></p> <p style="text-align: center;">Courage Responsibility Ethics Dedication - CREDibly serving the public safety of New Mexico</p>	
	ISSUE DATE: 11/28/94 EFFECTIVE DATE: 11/28/94	REVIEW/REVISED: 08/26/13
	TITLE: Religious Programs	

AUTHORITY:Policy *CD-010100***REFERENCE:**

- A. ACA Standard 2-CO-5E-01 and 2-CO-5E-02, *Standards for the Administration of Correctional Agencies*, 1993.
- B. ACA Standards 4-4512 through 4-4517 and 4-4519 through 4-4521, *Standards for Adult Correctional Institutions*, 4th Edition.
- C. Constitution of New Mexico Article XX, Section 13. Sacramental wines.

PURPOSE:

To establish policy for the practice of faith groups and ensure that inmates have the opportunity to participate in practices of their faith group, individually or corporately as authorized, that are deemed essential by the governing body of that religion, limited only by documentation showing threat to the safety of staff, inmates, or other persons involved in such activity, or that the activity itself disrupts the security or good order in the facility. Religious based programs/observances shall be accommodated, within available time and space, unless an overriding compelling governmental interest exists. **[2-CO-5E-01] [4-4517]**

APPLICABILITY:

All inmates under the jurisdiction of the New Mexico Corrections Department (NMCD), all employees of the NMCD who are involved in the management and operation of religious programs, especially the Chaplains/Religious Coordinators and volunteers who participate in NMCD religious programs.

FORMS:

None

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ATTACHMENTS:

Religious Groups Overview Attachment (CD-101301.A)

DEFINITIONS:

- A. Group Religious Practices: Occurs when two or more inmates are gathered to practice their faith in an approved, scheduled program/observance.
- B. Personal Religious Practice: Occurs when inmates practice/observe their faith, alone in their cell.
- C. Religion: Any bona fide belief system identified by an individual as their system of faith and worship; it is not restricted to established or nationally recognized religions.
- D. Religious Representative: A duly ordained clergy person, medicine person, Imam, Rabbi or other person qualified and authenticated representative of a legitimate religious practice who has been recommended by a staff chaplain and approved by the Warden.

POLICY:

The New Mexico Corrections Department (NMCD) shall provide religious programming for an inmate that is appropriate for the inmate's custody placement, including program coordination and supervision, opportunities to practice one's faith, and the use of community resources, including volunteers, religious facilities and equipment. The religious programs offered will reflect the diversity of traditions available in the larger, outside community, to the extent possible.

- A. A qualified senior staff member shall be responsible for coordinating the agency faith program and that the staff member: [2-CO-5E-02] [4-4516]
 - Specifies the lines of authority, responsibility, and accountability for the faith program;
 - Enables inmates to identify religious preferences upon entering NMCD and provides a process where preferences may be changed. Inmates are eligible to request a change in religious preference only once every 12 months. Requests are to be submitted in writing to the Chaplain or Classification Officer.
 - Ensures that inmates are not subjected to coercion, harassment, or ridicule due to religious affiliation.

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- Describes the conditions and circumstances under which clergy privileged communications exist. Circumstances under which privileged communication in the correctional setting does not apply should be clearly stated.
 - Develops and maintains close relationships with community religious resources.
- B. Establish guidelines for the practice of recognized faith groups. Ensures that inmates have the opportunity to participate in practices of their faith group, individually or corporately as authorized, that are deemed essential by the governing body of that faith, limited only by documentation showing threat to the safety of staff, inmates, or other persons involved in such activity, or that the activity itself disrupts the security or good order in the facility. Faith based programs/observances shall be accommodated, within available time and space, unless an overriding compelling governmental interest exists. [2-CO-5E-01] [4-4517]
- C. Establish consistent standards for accommodation of all NMCD recognized faith group practices.
- D. Permit holy days as documented by religious tenet, within available time, space, and security resources (for currently approved holy days refer to **Religious Groups Overview** Attachment (CD-101301.A)). The sign-up for Passover/Ramadan/Lent shall be facilitated by the Chaplain, submitted to the Warden/designee and manager of Food Service as appropriate [2-CO-5E-01].
- E. Permit Work Proscription Days: Inmates who are affiliated to the faith groups that require work proscription days shall be allowed to miss work, without pay, for those days (per **Religious Groups Overview** Attachment (CD-101301.A)). [2-CO-5E-01]
- F. Inmate shall have the opportunity to participate in practices of their religious faith that are deemed essential by the religious' judicatory, limited only by documentation showing threat to the safety of persons involved in such activity or that the activity itself disrupts order in the institution. [4-4517]
- G. There shall be a chaplain (or chaplains) with minimum qualifications of: [4-4512]
- Clinical pastoral education or equivalent specialized training and;
 - Endorsement by the appropriate religious certifying body.
- H. The chaplain assures equal status and protection for all religions.
- Ensures that inmates are not subjected to coercion, harassment, or ridicule due to religious affiliation;

NUMBER: CD-101300

REVIEW/REVISION: 08/26/13

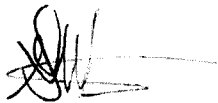
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REVIEW/REVISION: **08/26/13**


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- Describes the conditions and circumstances under which clergy privileged communications exist. Circumstances under which privileged communication in the correctional setting does not apply should be clearly stated;
 - Ensures that staff who have direct contact with inmates are given training regarding religious practices; and
 - Develops and maintains close relationships with community religious resources.
- I. When a religious leader of an inmate's faith is not represented through the chaplaincy staff or volunteers, the chaplain assists the inmate in contacting a person who has the appropriate credentials from the religious judicatory. That person ministers to the inmate under the supervision of the chaplain. **[4-4519]**
- J. Institutions shall provide space and equipment adequate for the conduct and administration of religious programs. The institution makes available non-inmate clerical staff for confidential material. **[4-4520]**
- K. The chaplain, in cooperation with the institutional Warden or designee, develops and maintains communications with faith communities and approves donations of equipment or materials for use in religious programs. **[4-4521]**
- L. The chaplain plans, directs, and coordinates all aspects of the religious program, including approval and training of both lay and clergy volunteers from faiths represented by the inmate population. **[4-4514]**
- M. The chaplain shall have access to all areas of the institution to minister to inmates and staff. **[4-4515]**
- N. The chaplain or designated religious staff shall develop and maintain close relationships with community religious resources. **[4-4516]**
- O. In facilities with an average daily population of 500 or more inmates, there shall be a full-time chaplain (or chaplains). In facilities with less than 500 inmates, adequate religious staffing shall be available. **[4-4513]**
- P. Native American religious programming is identified and fully described in CD-101100 **Native American Counseling Act.**



Gregg Marcantel, Secretary of Corrections
New Mexico Corrections Department

08/26/13
Date

 CD-101301	NEW MEXICO CORRECTIONS DEPARTMENT <small>"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always."</small> <small>Courage Responsibility Ethics Dedication - CREDibly serving the public safety of New Mexico</small>	
	ISSUE DATE: 11/28/94 EFFECTIVE DATE: 11/28/94	REVIEW/REVISED: 08/26/13
	TITLE: Religious Programs	

AUTHORITY:Policy *CD-101300***PROCEDURES: [4-4517] [4-4520]****Efforts shall be made to treat bona fide religions equally.**

An inmate's religious requests, including those considered being fundamental and essential, may be denied for reasons of security or for other substantiated reasons. If a request is denied, alternatives to accommodate the religious practice must be explored which might allow the inmate to practice by means appropriate to their custody level.

- A. Sacramental wine is necessary for the worship of some faith groups, i.e. the requirements of the ritual cannot be satisfied without the use of wine. Sacramental wine is not to be offered to inmates unless documented as having been deemed essential by the religious' judicatory. In those cases where the religious ritual can only be satisfied by offering the Sacramental wine to the inmate, documentation should be provided demonstrating that this is essential to the practice of the faith. The warden with advice from the chaplain may permit inmates to receive a small amount of sacramental wine. For scheduled services for which wine is authorized, the faith representative will supply the wine and be allowed to bring it into the facility. At the conclusion of the service, the clergy must remove from the facility any sacramental wine not used in the service.
- B. If items or activities are used to facilitate practices that are essential to the practice of a religion, the Corrections Department may provide those items through donation or budget unless they are denied for security reasons. If such items are stored, they will be treated with due respect and made available at normal times of worship.
 - Religious Property (Group): Items defined by faith group tenets which are permitted within security constraints for use in group faith practices.
 - Religious Property (Personal): Items defined by faith group tenets which are permitted within security constraints for use in personal religious practices.

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- C. Individual items which are not essential to a religion will not be provided by NMCD, but personnel and volunteers, with the approval of the facility warden, will make reasonable efforts to facilitate the inmate's purchase of such items or acquisition through donation, unless there is a substantial State interest to deny the items. Once approved, such items are to be placed on the inmate's property list and shall not to be treated as contraband unless altered from their original form.
- D. Holy Day Observance: A religious based observance, supported by tenet, which may or may not support accommodation of group gatherings.
- Allow up to two hours for group gatherings on non-work proscription days.
 - Allow up to four hours for group gatherings on work proscription days, (Exception: A minimum of six (6), but no more than eight (8), hours for Native American sweat lodge ceremonies).
- E. Institutions designated level 5 or 6 may provide religious services through Educational Television (ETV) so as to reach the largest number of inmates housed in these custody levels.
- F. Accommodates for inmates' religious diets, whose religious beliefs require the adherence to religious dietary laws. Inmates must submit a written request for religious diet based on faith group tenets for approval. The contract will provide for religious diet requirements. The food service provider will accommodate facility approved religious diet requests. [4-4313]
- G. Institutions may organize religious review committees (composed of administrators, chaplains and community religious leaders) to assist the facility warden, to review religious requests and to ensure equity and consistency of those decisions. They may recommend and/or facilitate the verification of purported basic tenets of religions with which they are not familiar. All committee recommendations require the approval of the Warden or a designee.
- H. Food items purchased or provided from outside sources for holy day observances will only be allowed if one of the following applies:
- 1) An approved outside volunteer(s) provides food item(s), and is present to conduct the observance, with the approval of the Warden or a designee.
 - 2) Where security permits, inmates may be allowed to purchase and bring canteen food items to holy day observances, when requested in advance of the observance. All food must be consumed during the observance; remaining food items will be destroyed, with the approval of the Warden or a designee.

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- I. Inmates of the same faith group assigned to a facility or custody level will be permitted to gather for holy day observances within allowable safety and security policies. [2-CO-5E-01]
- J. An inmate who changes his or her name for religious reasons must use the name under which he or she was committed for all official purposes while they are under the supervision of the Corrections Department to ensure proper tracking of individuals and accurate record keeping. The inmate may use their name that was changed for religious reasons for all non-official purposes.
- K. The Chaplains/Religious Coordinators will submit a report each month to the Warden that documents the religious services programs of the institution. The report shall include schedules or calendars that reflect the dates, times and names of volunteer groups that provide faith programs.
- L. As available, the Department will assist state and national organizations to provide faith programming at one or more Corrections Department institutions.



Gregg Marcantel, Secretary of Corrections
New Mexico Corrections Department

08/26/13
Date

NEW MEXICO CORRECTIONS DEPARTMENT
RELIGIOUS GROUPS OVERVIEW

Faith Group	Diet Consideration And Fast Days	NMCD Holy Days (time off from work required: NO) Unpaid Work Proscription Days (day off from work required: YES)	Worship Practices Personal / Group Accommodated around normal work hours	Allowable Religious Items Group Property (Personal or Participant Property is as Allowed by NMCD Property Policies.)
American Indian / Alaskan Native	No special dietary standard exists	<p>Unpaid Work Proscription Days</p> <p>Special additional Sweat Lodge ceremonies to be held these days:</p> <ul style="list-style-type: none"> ▪ Spring -Equinox ▪ Summer - Solstice ▪ Fall - Equinox ▪ Winter - Solstice ▪ Special additional Sweat <p>Ceremonies may be held on an alternate day from 7 days prior to 7 days after the holy day</p> <p>* Minimum of 6 hours (maximum of 8) for weekly Sweat Ceremony</p>	<p>P - Smudging</p> <p>G - Sweat (up to 8 hrs) / Smudging / Talking Circle / Pipe Ceremony</p>	<ul style="list-style-type: none"> ▪ Antler sets – up to 2 ▪ Blankets / lodge cover - up to 2 layers ▪ Buffalo/cow skull – 1 ▪ Canvas – lodge cover 1layer ▪ Ceremonial pipe – 1 ▪ Ceremonial pipe wrap/bag -1 ▪ Drum sticks – up to 20 ▪ Drums – up to 2 ▪ Feather fans – 3 ▪ Firewood – amount contingent to facility space, security ▪ Forked stick sets – up to 4 ▪ White Headband - 1 per participant ▪ Herbs as in personal property ▪ Lava rock – up to 30 ▪ Lighter - 1 ▪ Lodge pole – 1 ▪ Lodge pole flags – up to 4 ▪ Pitchfork – 1 ▪ No acquisition of new personal pipes will be allowed ▪ No non-indigenous plants shall be allowed to be planted or grown. <ul style="list-style-type: none"> ▪ Prayer ties – up to 4"x4" in size, multicolor ▪ Rattles – 4 ▪ Shells – 2 ▪ Shovel – 1 ▪ Song sheets – up to 20 ▪ Stones rounded crystals no larger than 1" in diam – 6 ▪ Stones turquoise no larger than 2" in diam – 6 ▪ Tobacco blend – up to 1 oz ▪ Faith specific VHS/DVD videos & books & tapes ▪ Water ▪ Water bucket – 1 ▪ Water dipper – 1

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NEW MEXICO CORRECTIONS DEPARTMENT
RELIGIOUS GROUPS OVERVIEW

Faith Group	Diet Consideration And Fast Days	NMCD Holy Days (time off from work required: NO) Unpaid Work Proscription Days (day off from work required: YES)	Worship Practices Personal / Group Accommodated around normal work hours	Allowable Religious Items Group Property (Personal or Participant Property is as Allowed by NMCD Property Policies.)
Asatru (Odinism)	No special dietary standard exists. (Pork on Yule Feast to be provided by Religious Volunteer subject to approval.)	Unpaid work proscription day(s) <ul style="list-style-type: none"> High Feast of Osatra – March 20th High Feast of Baldor – June 21st Winter Finding – September 21st High Feast of Yule – December 21st Up to 2 hour observance Fire is allowed contingent upon time, space, security and physical plant	P – Rune cards w/ instruction booklet G – Blot / Sumbel Prefer to gather outdoors for ritual, but indoors is appropriate also	<ul style="list-style-type: none"> Altar – 1 Altar candles/holders (various colors) – up to 6 Altar cloth – 1 Bowl (offering) – 1 Religious specific-VHS/DVD/books/tapes (amount contingent to facility space, security) Firewood (amount contingent to facility space, security) Gandar (1/2" x 24") – 1 (excluding Levels V and VI) Libation cup – 1 Oath ring (up to 6 inches wood) Thor's Hammer up to 12" (constructed of strong cardboard) – 1 Wand up to 12 in. constructed of strong cardboard - 1 Pictures of Deities - 6 Sprig (evergreen) – 1
Baha'i	No special dietary standard exists Fast: March 2-21	Holy Day Observance <ul style="list-style-type: none"> Ridvan Declaration of the Bab Ascension of Baha'u'llah Martyrdom of Bab Birth of Bab Birth of Baha'u'llah Day of the Covenant Ascension of Abdu'l Baha Unpaid Work Proscription Days <ul style="list-style-type: none"> Baha'i New Year - Nan Ruz 	P - Prayer G - None required	None

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NEW MEXICO CORRECTIONS DEPARTMENT
RELIGIOUS GROUPS OVERVIEW

Religious Group	Diet Consideration And Fast Days	NMCD Holy Days (time off from work required: NO) Unpaid Work Proscription Days (day off from work required: YES)	Worship Practices Personal / Group	Allowable Religious Items Group Property (Personal or Participant Property is as Allowed by NMCD Property Policies.)
Buddhism	Vegetarian Most follow, but not precept of the faith	Holy Day Observance <ul style="list-style-type: none"> Birthday of Buddha Vesak (Buddha Day) Dharma Day Pavarana Bodhi Enlightenment Day Unpaid Work Proscription Days <ul style="list-style-type: none"> Nirvana Sangha Day 	Accommodated around normal work hours P - Meditation / chanting G - Meditation / teaching	<ul style="list-style-type: none"> Altar - 1 Altar cloth - 1 Bell (small) -1 Bowls (offering) up to 7 Box (covered in brocade/cloth) -1 Candle w/ holder (various colors) - 1 battery operated religious specific VHS/DVD videos & books & tapes amount contingent to facility space, security Meditation cushion - 1 per participant Pictures (Buddhist) - 6 Statue (Buddha up to 6") - 1 Text (small scroll or book wrapped in cloth) - 1
Roman Catholic	Meatless entree on Fridays during Lent, Ash Wednesday & Good Friday	Holy Day Observance <ul style="list-style-type: none"> Sunday Ash Wednesday Good Friday Easter Christmas Octave of Christmas Ascension of Jesus Assumption of Mary All Saints Day Immaculate Conception Unpaid work proscription day (s). Participation in the Eucharist is required on all Holy Days of Obligation, and work is prohibited.	P - individual choice Confession (when Priest volunteers are available) G - Mass/communion service (when Priest/Eucharistic Minister/Deacon volunteers are available) Priest may bring up to 3 oz of wine for mass - Priest/Deacon consumption only	<ul style="list-style-type: none"> Altar - 1 Altar cloth - 1 Bowl/cup (offering) -1 Candles w/ holders (various colors) - up to 6 Battery operated Incense holders Cross/crucifix (up to 6") - 1 Holy water - up to 6 oz Missals and hymnals - 1 per participant Sacrament of communion (sacramental wine and host/wafer no inmate consumption of consecrated wine) Stations of the Cross (paper or cardboard) up to 12"x10" - 1 set Statues (Saints up to 6") - 2 Religious specific VHS/DVD videos & books & tapes (amount contingent to facility space, security)

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